UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.98
November 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Iceland

1. The Committee considered the third periodic report of Iceland (CCPR/C/94/Add.2) at its 1704th and 1705th meetings, held on 21 October 1998 (CCPR/C/SR.1704-1705), and adopted the following concluding observations at its 1717th meeting, held on 29 October 1998.

A. Introduction

2. The Committee welcomes the timely and comprehensive report submitted by the Government of Iceland. The Committee also expresses its appreciation for the provision, by the Icelandic delegation of further information about developments in the implementation of human rights in Iceland subsequent to the submission of the report. The written information submitted by the delegation in reply to the Committee's list of issues was particularly useful. The Committee also expresses its appreciation for the constructive and open dialogue it had with the Icelandic delegation.

B. Positive factors

3. The Committee commends the State party for its excellent record in the implementation of the provisions of the Covenant. It notes with appreciation that the second periodic report of Iceland as well as the Committee's concluding observations thereon were widely disseminated and were the object of public debate, which contributed to recent constitutional and legislative changes in the field of human rights.

4. The Committee welcomes the fact that Iceland has withdrawn its reservation to articles 8, paragraph 3 (a), and 13 of the Covenant.

5. The Committee expresses satisfaction at the adoption of Constitutional Act No. 97/1995 amending the human rights provisions of the Constitution, which now reflects to a greater extent the provisions of various international human rights instruments, including the International Covenant on Civil and Political Rights. The Committee also expresses its satisfaction that the constitutional amendments give strength to the principle of the indivisibility of civil, political, economic, social and cultural rights.

6. The Committee takes note of the intense legislative activity in matters covered by the Covenant that has taken place in Iceland since the examination of the second periodic report. It expresses its appreciation that the newly adopted laws contribute to better protection of fundamental rights in the State party. Of particular interest in this respect are the adoption of Act No. 62/1994 incorporating the Convention on Human Rights, the Act on the Judiciary (No. 15/1998), and the amendments to the Foreign Nationals Supervision Act (No. 45/1965), the Personal Names Act (No. 45/1996) and the Act on Administrative Procedures (73/1993).

7. The Committee welcomes the establishment of the Office of the Ombudsman for Children (Act No. 83/1994) and of the Human Rights Centre in 1994.

C. Principal subjects of concern and recommendations

8. While noting that the the European Convention for the Protection of Human Rights and Fundamental Freedoms has been incorporated into Icelandic law, the Committee emphasizes that a number of articles of the Covenant, including articles 3, 4, 12, 22, 24, 25, 26 and 27, go beyond the provisions of the European Convention. The Committee therefore encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law.

9. The Committee recommends that the remaining reservations to the Covenant be reconsidered with a view to their eventual withdrawal.

10. The Committee notes with concern the persistence of certain areas of inequality between men and women in Iceland, despite the efforts of the Government. It recommends that the State party intensify its efforts to achieve full equality between men and women, including in the employment sector. It hopes that the "job evaluation" exercise undertaken under the Ministry of Social Affairs will contribute to eliminating discrimination in the workplace and to implementing fully the principle of equal wage for work of equal value. The Committee asks that the next periodic report provide further information on measures taken to combat all forms of violence against women.

11. The Committee reiterates its concern over the persistence of discrimination in law and practice against children born out of wedlock, which is incompatible with articles 24 and 26 of the Covenant. It recommends that attention be paid to the prompt rectification of this situation with regard to all rights to which children are entitled.

13. The Committee requests the State party to ensure the publication and wide dissemination in Iceland of the State party's report as well as of the Committee's concluding observations.

14. The Committee fixes the date for the submission of Iceland's fourth periodic report to be October 2003.

UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.99
19 November 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Belgium

1. The Committee considered the third periodic report of Belgium (CCPR/C/94/Add.3) at its 1706th and 1707th meetings (CCPR/C/SR.1706-1707) held on 22 October 1998 and adopted the following concluding observations at its 1720th meeting (CCPR/C/SR.1720) held on 2 November 1998.

A. Introduction

2. The Committee expresses its appreciation to the State party for its comprehensive report, as well as for its very useful core document. It welcomes the open and self-critical approach taken by the State party in the preparation of the report, and notes the involvement and collaboration of many national institutions and universities. It observes, however, that while the report provides details on the legal order, it contains little information on actual practice. The Committee welcomes the additional data provided by the delegation from the capital and its readiness to provide written answers to pending questions.

B. Positive aspects

3. The Committee commends the establishment of institutions aimed at monitoring the observance of human rights by State authorities, including the Centre for Equality and Against Racism (Centre pour l'égalité et pour la lutte contre le racisme) and the committee to monitor the police services, with jurisdiction over all branches of the police force.

4. The Committee notes with satisfaction the establishment of the Council on Equal Opportunities for Men and Women. It notes that the participation of

women in public affairs has increased since the previous report, but requests that more detailed information on women's participation in the workforce be made available in the next periodic report.

5. The Committee welcomes the ongoing measures to reform the judicial system undertaken by the State party, in particular those aimed at strengthening the independence of the judiciary through the establishment of Supreme Judicial Council and a Council of Attorneys-General. The new law on the recruitment of judges and the increase in the number of judges constitute positive developments. Furthermore, penal procedures have been improved with regard to the gathering of information and investigations, and the handling o information by the police. The role of the police and of the investigating judge have been better defined. The Committee welcomes the abrogation of the Act of 11 July 1994 with a view to modernizing the criminal justice system an reducing the backlog in the courts of appeal.

6. The Committee takes note of new instructions relating to the methods an techniques under which deportations are carried out.

7. The Committee notes with satisfaction that children of illegal immigrants are entitled to education and medical care.

8. The Committee considers it a positive sign that unaccompanied minors seeking asylum are not sent back to their countries of origin, unless their safety is guaranteed.

9. With regard to the extradition of asylum seekers, the Committee welcome the assurances by the delegation that extradition procedures are suspended until the asylum determination procedures are concluded.

10. The Committee welcomes the fact that Belgium has started the procedure for ratifying the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

11. The Committee welcomes the establishment of an inter-ministerial committee with competence over trafficking in persons, prostitution and pornography, as well as the adoption of other legislative measures with extraterritorial application. It also welcomes the enactment of new laws aimed at combating more effectively the traffic in minors.

12. The Committee welcomes measures taken by the State party to improve prison conditions, in particular by introducing alternative forms of punishment and building new establishments to alleviate overcrowding.

C. Principal subjects of concern and recommendations

13. The Committee expresses its grave concern over the reports of widespread police brutality against suspects in custody. It regrets the lack of transparency in the conduct of investigations on the part of police authorities and the difficulty in obtaining access to this information.

14. The Committee is concerned about the behaviour of Belgian soldiers in Somalia under the aegis of the United Nations Operation in Somalia (UNOSOM II), and acknowledges that the State party has recognized the applicability of the Covenant in this respect and opened 270 files for

purposes of investigation. The Committee regrets that it has not received further information on the results of the investigations and adjudication of cases and requests the State party to submit this information.

15. Procedures used in the repatriation of some asylum seekers, in particular the placing of a cushion on the face of an individual in order to overcome resistance, entails a risk to life. The recent case of a Nigerian national who died as a consequence of such techniques illustrates the need to re-examine the whole procedure of forcible deportations. The Committee would like to receive written information on the results of the investigations as well as of any criminal or disciplinary proceedings. It recommends that all security forces concerned in effecting deportations should receive special training.

16. The Committee regrets that Belgium has not withdrawn its reservations to the Covenant and urges the Government to reconsider its position, in particular with regard to article 10. The Government's explanation that the reservation is necessary because there is a problem of overcrowding in prisons is not persuasive. In addition, alternative sentencing, including community service, should be encouraged in view of its rehabilitative function.

17. Community services and parole should be monitored and supervised in a more coherent way. The Committee encourages the Government to undertake an overall review of its sentencing policy and consequent training for the judiciary. The Committee is concerned that suspects do not at present have access to counsel and to medical visits from the moment of arrest. The Committee is also concerned about the non-application of judicial guarantees in administrative tribunals and other non-judicial entities. Suspects should be promptly informed of their rights in a language they understand.

18. The Committee is concerned about the length of pre-trial detention and about the high number of detainees in prisons who are still awaiting trial. The Committee reminds the State party that pursuant to article 9, paragraph 3, of the Covenant, pre-trial detention should be considered exceptional and must be justifiable. It urges the State party to review its rules and practice for granting bail. The Committee notes furthermore that the period of five months' detention, which may be extended to eight months, to which asylum seekers may be subjected, may amount to arbitrary detention in violation of article 9 of the Covenant, unless the detention is subject to judicial review which secures the release of the person if there is no lawful purpose being served by the detention.

19. Bearing in mind that pursuant to article 10, paragraph 3, of the Covenant, the essential aim of incarceration should be the reformation and social rehabilitation of offenders, the Committee urges the State party to develop rehabilitation programmes both for the time during imprisonment and for the period after release, when ex-offenders must be reintegrated into society if they are not to become recidivists.

20. The Committee considers that the current jurisprudence of the Court of Cassation stating that no judicial guarantees apply to the pre-trial stage is inconsistent with the Covenant; consequently, these guarantees should be extended to the pre-trial stage.

21. The Committee expresses grave concern about the retention of article 53 of the Act of 8 April 1965 on the protection of young persons, which entitles the authorities to incarcerate minors for a period of 15 days. This practice raises questions not only under article 10 but under articles 7 and 24 as well. Furthermore, the practice of not separating minors from adult offenders in jail is not only incompatible with article 10, paragraph 3, but constitutes a violation of article 24 of the Covenant.

22. While noting that the State party is taking measures to do away with the practice of keeping psychiatric patients in prison psychiatric annexes for several months before transferring them to hospitals that treat mental disorders (établissement de protection sociale), the Committee points out that this practice is incompatible with articles 7 and 9 of the Covenant and that it should be discontinued.

23. The Committee expresses its concern about the distinction made in Belgian legislation between freedom of assembly and the right to demonstrate, which is excessively restricted. It recommends that such differentiation be abolished.

24. The Committee notes that the requirement of prior authorization for foreign channels on cable networks is not entirely in conformity with article 19. The right to freedom of broadcasting should first be recognized; restrictions may be imposed as provided for in paragraph 3 of article 19.

25. The Committee notes that the procedures for recognizing religions and the rules for public funding of recognized religions raise problems under articles 18, 26 and 27 of the Covenant.

26. The Committee is concerned that the report gives very little information on the de facto situation of women. The Committee requests that the next report provide precise information on the outcome of measures to promote equality and to combat violence against women.

27. The Committee remains concerned about the production, sale and distribution of paedo-pornography. It urges the State party to take effective measures to curtail the possession and distribution of these criminal materials.

28. The Committee is concerned that provisions relating to fake marriages and to the expulsion of aliens may give insufficient protection to the right to marry and family life as recognized in articles 17 and 23 of the Covenant.

29. The Committee requests the State party to ensure the publication and wide dissemination in Belgium of the State party's report as well as of the Committee's concluding observations.

30. The Committee has fixed the date for submission of Belgium's fourth periodic report to be October 2002.

UNITED
NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/79/Add.100
19 November 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Armenia

1. The Committee considered the initial report of Armenia (CCPR/C/92/Add.2) at its 1710th and 1711th meetings (CCPR/C/SR.1710-1711) held on 26 October 1998 and adopted the following concluding observations at its 1721st and 1725th meetings (CCPR/C/SR.1721 and 1725) held on 2 and 4 November 1998.

A. Introduction

2. Although it notes the long delay in the submission of the report, the Committee welcomes the initial report of the State party, covering events that occurred from the country's independence, and the dialogue with the delegation on the implementation of the provisions of the Covenant. It appreciates the frankness with which the State party acknowledges the current problems, which are partly attributable to the fact that the country is in a period of transition, and its willingness to provide further information in writing.

B. Positive aspects

3. The Committee commends the State party for the process currently under way to bring its legislation fully into line with its international obligations. It welcomes the establishment of the Constitutional Commission to review the Constitution and the adoption of the law on the independence of the judiciary, the law on the Public Prosecutor's Office, the Criminal and Civil Codes, the law on civil and criminal procedure, the Labour Code, the Electoral Code, the law on citizenship and the laws on the rights of the child. It looks forward to receiving these new laws once they come into force.

4. The Committee notes with satisfaction the establishment of the Commission on Human Rights as an advisory body to the President of the Republic, with competence to review draft legislation affecting human rights and fundamental freedoms. It notes the setting up of a Human Rights Department within the Ministry of Foreign Affairs. The Committee further welcomes the proposal to establish the office of Ombudsmen with power to deal with individual complaints.

5. The Committee commends the State party for its expressed intention to abolish the death penalty by 1 January 1999, which will automatically affect all persons currently on death row.

6. The Committee welcomes the release of political prisoners in Armenia following the last presidential elections. In this connection, it notes with satisfaction that non-governmental organizations have been given the important role of visiting prisoners and making spot checks. In this connection, the Committee notes the role played by the Committee of Soldiers' Mothers in addressing complaints within military garrisons. In addition, the Committee notes the agreement with the International Committee of the Red Cross giving ICRC representatives access to detainees in Armenia.

C. Principal subjects of concern and recommendations

7. The Committee expresses its grave concern about the incompatibility of several provisions of the Constitution with the Covenant: for example, article 22 of the Constitution, which guarantees freedom of movement only to Armenian citizens, contravenes article 12 of the Covenant; articles 23, 44 and 45 of the Constitution, which allow derogation under a state of emergency and limitations to the freedom of thought and religion, contravene articles 4, paragraph 2, and 18 of the Covenant. The inconsistency of domestic law with provisions of the Covenant not only engenders legal insecurity, but is likely to lead to violations of rights protected under the Covenant.

8. The Committee notes that the independence of the judiciary is not fully guaranteed. In particular, it observes that the election of judges by popular vote for a fixed maximum term of six years does not ensure their independence and impartiality.

9. The Committee is concerned that pursuant to article 101 of the Constitution only representatives of the executive and legislative branches may have recourse to the Constitutional Court. The Committee recommends that the State party amend its Constitution so as to enable individuals, in appropriate circumstances, to bring questions concerning human rights guaranteed in the Constitution, many of which are also protected in the Covenant, to the Constitutional Court.

10. The Committee takes note that the new Criminal Code provides for the abolition of the death penalty, and recommends that the death sentences of

all persons currently on death row be immediately commuted. The Committee hopes that the State party will consider ratification of the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

11. The Committee is concerned that all the grounds for pre-trial detention are not listed in the present law. While noting that the new Criminal Code provides for a maximum period of three months' detention, the Committee is concerned that very few detainees benefit from bail, and urges the State party to observe strictly the requirements of article 9, paragraph 3, of the Covenant.

12. The Committee expresses its concern about allegations of torture and ill-treatment by law-enforcement officials. The Committee recommends the establishment of a special independent body to investigate complaints of torture and ill-treatment by law enforcement personnel.

13. The Committee is concerned about the poor conditions prevailing in prisons. It reminds the State party that all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person, and recommends that the State party observe the Standard Minimum Rules for the Treatment of Prisoners.

14. The Committee observes that de facto discrimination against women persists as a matter of custom and stresses that this problem should be addressed in the light of Armenia's obligations under the Covenant.

15. The Committee is concerned about discrimination against women in employment and their under-representation in the conduct of public affairs. Furthermore, the Committee regrets the disproportionate level of unemployment among women, which has been explained by the delegation as being due to economic hardship.

16. The lack of data on cases of domestic violence should not be interpreted to mean that no such incidents occur. The Committee therefore recommends that specific protection and punitive measures be taken with respect to all forms of violence against women, including rape. The Committee urges the State party to compile relevant data for submission in the next periodic report.

17. The Committee is concerned as to the existence of the phenomenon of street children in Armenia. The State party must urgently address this issue under article 24 of the Covenant.

18. The Committee regrets the lack of legal provision for alternatives to military service in case of conscientious objection. The Committee deplores the conscription of conscientious objectors by force and their punishment by military courts, and the instances of reprisals against their family members.

19. The Committee is concerned that registration of religions is required and that the number of followers required for registration has

been increased. The Committee also notes that non-recognized religions are discriminated against in their entitlement to own private property and to receive foreign funds.

20. The Committee is concerned about the compatibility of the 1991 Press Law with freedom of expression under article 19 of the Covenant, in particular that the notion of "State secrets" and of "untrue and unverified information" (article 6 of the Press Law) are unreasonable restrictions on freedom of expression. Furthermore, the Committee is concerned about the extent of the Government's monopoly in respect of printing and distribution of newspapers.

21. The Committee expresses its concern about the strict governmental control over electronic media, which may raise issues under article 19 and which results in serious limitations to the exercise of the rights guaranteed in article 25, in particular with regard to elections.

22. The Committee expresses its concern about the State party's position that it is not possible to ensure that small national minorities have access to educational facilities in their language of origin. The Committee recommends that measures be taken in conformity with article 27 of the Covenant.

23. The Committee commends the State party for its efforts in disseminating information on human rights, including human rights education in school curricula. In particular, the Committee observes that human rights training of the legal profession and of the judiciary is necessary for democracy. Therefore, the Committee recommends that such training be provided. The Committee urges the State party to disseminate widely its initial report and the Committee's concluding observations.

24. The Committee has fixed the date for submission of Armenia's second periodic report to be October 2001.

UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.101
6 November 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Libyan Arab Jamahiriya

1. The Committee considered the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1) at its 1712th and 1713th meetings, held on 27 October 1998, and adopted the following concluding observations at its 1720th meeting, held on 2 November 1998.

A. Introduction

2. The Committee welcomes the timely report submitted by the Government of the Libyan Arab Jamahiriya and the willingness of the State party to have a continued dialogue with the Committee. The Committee notes with regret that the report, while providing information on legal norms and enactments governing the obligations set out in the Covenant, lacks information on the implementation of the Covenant in practice. The Committee notes that the third periodic report of the State party does not address the concerns expressed by the Committee in its concluding observations on the second report of the Libyan Arab Jamahiriya and does not provide the data requested on that occasion. It however notes the State party's undertaking to submit additional written information in response to the Committee's questions which remained unanswered so far.

B. Factors and difficulties

3. The Committee notes that the embargo on air travel, imposed by the Security Council on the Libyan Arab Jamahiriya since April 1992, is considered by the Libyan Government as creating economic difficulties and affecting the implementation of certain provisions of the Covenant.

C. Positive aspects

4. The Committee welcomes the principle of direct applicability of the Covenant and the possibility of invoking it directly before the courts.

5. The Committee welcomes the concrete efforts made by the State party to enact legislation reducing inequalities between men and women in the field of personal status. The Committee also welcomes the measures taken to improve the situation of women in public life and civil society, particularly in the workplace and in access to education.

D. Principal subjects of concern and recommendations

6. The Committee is concerned by the lack of clarity about the legal status of the Covenant, in particular about the hierarchy between the Covenant, the Great Green Document on Human Rights and the Constitutional Proclamation. Neither in examining the report of the State party nor during the dialogue with the delegation could the Committee gain a clear understanding of how conflicts between the Covenant and domestic law are solved or of the role of the Supreme Court in this respect.

7. The Committee is deeply troubled by the allegations, from various reliable sources, of extrajudicial, arbitrary or summary executions perpetrated by state agents as well as of a high incidence of arbitrary arrest and detention, including long detention without trial. The Committee expresses its regret at the lack of transparency on the part of the State Party in responding to these concerns. The Committee

recommends that all allegations mentioned above be fully, publicly and impartially investigated, that the results of such investigations be published, that the perpetrators of those acts be brought to justice and that the victims and their families be duly compensated. The Committee urges the State party to include in its next report information, including names and statistics, about disappeared persons, cases of extrajudicial, arbitrary or summary executions and about persons kept under detention without charge, in situations of indefinite detention without trial or following acquittal by courts.

8. The Committee is particularly concerned about the excessively vague wording of article 4 of the Promotion of Freedom Act, which stipulates that the death penalty may be imposed "on a person whose life endangers or corrupts society" and similar wording in the Great Green Document, thus leading to the imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including political and economic offences, in violation of article 6, par. 2., of the Covenant. Furthermore, the Committee deplores that retribution is legally accepted as a ground for the imposition of death penalty. In its next report, the State party is asked to furnish information on the number of executions which have taken place in the last ten years, the type of offence for which the death penalty has been imposed, and the manner in which the execution has been carried out. The Committee recommends that urgent steps be taken to reduce the number and type of crimes entailing capital punishment and to repeal all provisions incompatible with article 6 of the Covenant.

9. The Committee is concerned at the high rate of maternal mortality and requests the State party to provide information in its next report on measures taken to reduce it.

10. The Committee is deeply concerned over persistent allegations of systematic use of torture and cruel, inhuman or degrading treatment or punishment. The Committee takes positive note of the data offered by the delegation about investigations carried out in some cases and of punishment of those responsible for such acts, as well as of the

indemnity given to victims. The Committee recommends that the State party enforce a more efficient system for monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. It urges the State party to ensure that all cases of alleged torture or ill-treatment be investigated by an impartial body, that the results of such investigations be published and that officials responsible for torture and ill-treatment be prosecuted and, if convicted, severely punished. The State party is asked to include in its next report information on steps taken in this respect as well as on prison conditions. The Committee also recommends that training courses on human rights be conducted for law enforcement personnel.

11. Furthermore, the Committee recalls that flogging, which is recognized in the Libyan Arab Jamahiriya as a penalty for criminal offences, is incompatible with article 7 of the Covenant. The imposition of such punishment should cease immediately and all laws and regulations providing for its imposition should be repealed without delay. Amputation, although not used in practice, according to the Delegation, should be formally abolished.

12. The Committee stresses with deep concern that the law enacted in 1997 known as the "Charter of Honour", which authorizes collective punishment for those found guilty of collective crimes (including "obstructing the people's authority..., damaging public and private institutions"), violates several articles of the Covenant, including articles 7, 9 and 16. It recommends that the application of this law be suspended without delay and that steps be taken to repeal it.

13. The Committee reiterates its concern about the excessive duration of remand in custody and undue prolongation of pre-trial detention and urges that all necessary measures be taken to reduce the length of such detention and to improve judicial oversight.

14. The Committee considers that serious doubts arise as to the independence of the judiciary and the liberty of advocates to exercise their

profession freely, without being in the employment of the State, and to provide legal aid services. The Committee recommends that measures be taken to ensure full compliance with article 14 of the Covenant as well as with the United Nations Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers. Training in human rights law should be given to all judges and members of the legal profession. In its next report, the State party is requested to provide detailed information on the jurisdiction, composition and activities of the Revolutionary Security Courts, as well as on the organisation of the legal profession.

15. The Committee expresses its deep concern about the numerous restrictions, in law and in practice, on the right to freedom of expression, and in particular on the right to express opposition to or criticism of the Government, of the established political, social and economic system and of the cultural values prevailing in the Libyan Arab Jamahiriya. The Committee urges the State party to undertake a truly critical analysis of restrictions to articles 18, 19, 21, 22 and 25 and their effect in practice, with a view to fulfilling its obligations under those articles. More specifically, the Committee stresses that article 25 provides for genuine elections with secret ballot and that the State party must comply with this requirement. It recommends that the application of provisions of the Publication Act (1972) which are incompatible with article 19, of the Covenant, should be immediately suspended and that steps should be taken for its revision.

16. Notwithstanding the statement contained in the State party's report and reiterated by the delegation that "all Libyans are Muslims by birth and heredity", the Committee stresses that it is incumbent on the State party to ensure that all individuals subject to its jurisdiction enjoy their right to freedom of thought, conscience and religion under article 18 of the Covenant.

17. The Committee notes with concern that, in spite of the Government's efforts, inequality between men and women persists in a number of areas, such as inheritance, freedom of movement, acquisition and transmission

of nationality and divorce. It was also concerned to receive from the Delegation information that polygamy may still be practised under certain conditions. The Committee regrets that the law still does not provide adequate protection to women in respect of domestic violence and rape. While recognizing the progress achieved as far as equality in the workplace is concerned, the Committee emphasizes that much remains to be done to reach full equality, including equal wages. The Committee recommends that the State party intensify its efforts to guarantee full equal enjoyment by men and women of all their human rights.

18. The Committee expresses its concern over the persistence of discrimination in law and practice against children born out of wedlock, which is incompatible with articles 24 and 26 of the Covenant. It recommends that attention be paid to the prompt rectification of this situation with regard to all rights to which children are entitled.

19. The Committee takes note with concern of the statement contained in the State party's report and reiterated by the delegation that there are no ethnic, religious or cultural minorities in the Libyan Arab Jamahiriya. It draws the attention of the State party to its General Comment No. 23 (50), which lays down various objective elements to establish the existence of minorities in a State party. The Committee regrets the lack of information on the protection of persons belonging to those minorities and requests that specific information on minorities be included in the State party's next report.

20. The Committee observes that although the Libyan Arab Jamahiriya became a party to the Optional Protocol in 1989, only two communications and three contact letters have been addressed to the Committee. This may suggest that the people living in the State party are not aware of their right to use such mechanism. The Committee urges the State party to take urgent steps to disseminate the Covenant and the Optional Protocol to the public at large, to persons in detention and to the legal community.

21. Noting with regret that no information was submitted by Libyan non-governmental organisations on the Government's report, the Committee

regrets that it did not receive satisfactory information on the existence and functioning of non-governmental human rights organisations in the Libyan Arab Jamahiriya. Urgent steps should be taken by the State party to allow the free operation of independent non-governmental human rights organisations.

22. The Committee fixes the date for the submission of the Libyan Arab Jamahiriya's fourth periodic report to be October 2002. It recommends that the next report should contain material which addresses all concerns and recommendations expressed in the present concluding observations. The Committee further recommends that the text of the State party's third periodic report and these concluding observations be published and widely disseminated among the public in all parts of the Libyan Arab Jamahiriya.

UNITED
NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/79/Add.102
19 November 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Japan

1. The Committee considered the fourth periodic report of Japan (CCPR/C/115/Add.13 and Corr. 1) at its 1714th to 1717th meetings (CCPR/SR.1714-1717), held on 28 and 29 October 1998, and adopted the following concluding observations at its 1726th and 1727th meetings (CCPR/C/SR.1726-1727), held on 5 November 1998.

A. Introduction

2. The Committee expresses its appreciation for the frank and forthright replies given by the delegation to the issues raised by the Committee and the clarifications and explanations given in answer to the oral questions put by the members of the Committee. The Committee is also appreciative of the presence of the large delegation representing various branches of the Government, which demonstrates the seriousness of the State party in meeting its obligations under the Covenant. The Committee also commends the State party for having given wide publicity to its report and to the work of the Committee. It welcomes the large number of lawyers and non-governmental organizations present during the discussion of the report.

B. Positive aspects

3. The Committee commends the Government for the ongoing process of bringing its legislation into line with the provisions of the Covenant. It welcomes the enactment of the Law on the Promotion of Measures for Human Rights Protection, as well as amendments to other laws such as the Equal

Employment Opportunities Law, the Standard Labour Law, the Immigration Control and Refugee Recognition Act, the Penal Code, the Child Welfare Law, the Election Law and the Entertainment Business Law, and the draft bill aimed at punishing Japanese nationals involved in child prostitution and child pornography.

4. The Committee notes with satisfaction the establishment, at Cabinet level, of the Council for the Promotion of Gender Equality, aimed at investigating and developing policies for the achievement of a gender-equal society and its adoption of the Plan for Gender Equality 2000. The Committee also notes the measures being taken by the human rights organs of the Ministry of Justice to deal with the elimination of discrimination and prejudice against students at Korean schools in Japan, children born out of wedlock and children of the Ainu minority.

5. The Committee welcomes the abolition of restrictions on women's eligibility to take the national public service examination, the abolition of discriminatory compulsory retirement, and of dismissals on grounds of marriage, pregnancy or childbirth.

C. Principal subjects of concern and recommendations

6. The Committee regrets that its recommendations issued after the consideration of the third periodic report have largely not been implemented.

7. The Committee stresses that protection of human rights and human rights standards are not determined by popularity polls. It is concerned by the repeated use of popularity statistics to justify attitudes of the State party that may violate its obligations under the Covenant.

8. The Committee reiterates its concern about the restrictions which can be placed on the rights guaranteed in the Covenant on the grounds of "public welfare", a concept which is vague and open-ended and which may permit restrictions exceeding those permissible under the Covenant. Following upon its previous observations, the Committee once again strongly recommends to the State party to bring its internal law into conformity with the Covenant.

9. The Committee is concerned about the lack of institutional mechanisms available for investigating violations of human rights and for providing redress to the complainants. Effective institutional mechanisms are required to ensure that the authorities do not abuse their power and that they respect the rights of individuals in practice. The Committee is of the view that the Civil Liberties Commission is not such a mechanism, since it is supervised by the Ministry of Justice and its powers are strictly limited to issuing recommendations. The Committee strongly recommends to the State party to set up an independent mechanism for investigating complaints of violations of human rights.

10. More particularly, the Committee is concerned that there is no independent authority to which complaints of ill-treatment by the police and immigration officials can be addressed for investigation and redress. The Committee recommends that such an independent body or authority be set up by the State party without delay.

11. The Committee is concerned about the vagueness of the concept of "reasonable discrimination", which, in the absence of objective criteria, is incompatible with article 26 of the Covenant. The Committee finds that the arguments advanced by the State party in support of this concept are the same as had been advanced during the consideration of the third periodic report, and which the Committee found to be unacceptable.

12. The Committee continues to be concerned about discrimination against children born out of wedlock, particularly with regard to the issues of nationality, family registers and inheritance rights. It reaffirms its position that pursuant to article 26 of the Covenant, all children are entitled to equal procection, and recommends that the State party take the necessary measures to amend its legislation, including article 900, paragraph 4, of the Civil Code.

13. The Committee is concerned about instances of discrimination against members of the Japanese-Korean minority who are not Japanese citizens, including the non-recognition of Korean schools. The Committee draws the attention of the State party to General Comment No. 23 (1994) which stresses that protection under article 27 may not be restricted to citizens.

14. The Committee is concerned about the discrimination against members of the Ainu indigenous minority in regard to language and higher education, as well as about non-recognition of their land rights.

15. With regard to the Dowa problem, the Committee acknowledges the acceptance by the State party of the fact that discrimination persists vis-à-vis members of the Buraku minority with regard to education, income and the system of effective remedies. The Committee recommends that the State party take measures to put an end to such discrimination.

16. The Committee is concerned that there still remain in the domestic legal order of the State party discriminatory laws against women, such as the prohibition for women to remarry within six months following the date of the dissolution or annulment of their marriage and the different age of marriage for men and women. The Committee recalls that all legal provisions that discriminate against women are incompatible with articles 2, 3 and 26 of the Covenant and should be repealed.

17. The Committee reiterates the comment made in its concluding observations at the end of the consideration of Japan's third periodic report that the Alien Registration Law, which makes it a penal offence for alien permanent residents not to carry certificates of registration at all times and imposes criminal sanctions, is incompatible with article 26 of the Covenant. It once again recommends that such discriminatory laws be abolished.

18. Article 26 of the Immigration Control and Refugee Recognition Act provides that only those foreigners who leave the country with a permit to re-enter are allowed to return to Japan without losing their residents status and that the granting of such permits is entirely within the discretion of the Minister of Justice. Under this law, foreigners who are second- or third-generation permanent residents in Japan and whose life activities are based in Japan may be deprived of their right to leave and re-enter the

country. The Committee is of the view that this provision is incompatible with article 12, paragraphs 2 and 4, of the Covenant. The Committee reminds the State party that the words "one's own country" are not synonymous with "country of one's own nationality". The Committee therefore strongly urges the State party to remove from the law the necessity to obtain a permit to re-enter prior to departure, in respect of permanent residents like persons of Korean origin born in Japan.

19. The Committee is concerned about allegations of violence and sexual harassment of persons detained pending immigration procedures, including harsh conditions of detention, the use of handcuffs and detention in isolation rooms. Persons held in immigration detention centres may remain there for periods of up to six months and, in some cases, even up to two years. The Committee recommends that the State party review the conditions of detention and, if necessary, take measures to bring the situation into compliance with articles 7 and 9 of the Covenant.

20. The Committee is gravely concerned that the number of crimes punishable by the death penalty has not been reduced, as was indicated by the delegation at the consideration of Japan's third periodic report. The Committee recalls once again that the terms of the Covenant tend towards the abolition of the death penalty and that those States which have not already abolished the death penalty are bound to apply it only for the most serious crimes. The Committee recommends that Japan take measures towards the abolition of the death penalty and that, in the meantime, that penalty should be limited to the most serious crimes, in accordance with article 6, paragraph 2, of the Covenant.

21. The Committee remains seriously concerned at the conditions under which persons are held on death row. In particular, the Committee finds that the undue restrictions on visits and correspondence and the failure to notify the family and lawyers of the prisoners on death row of their execution are incompatible with the Covenant. The Committee recommends that the conditions of detention on death row be made humane in accordance with articles 7 and 10, paragraph 1, of the Covenant.

22. The Committee is deeply concerned that the guarantees contained in articles 9, 10 and 14 are not fully complied with in pre-trial detention in that pre-trial detention may continue for as long as 23 days under police control and is not promptly and effectively brought under judicial control; the suspect is not entitled to bail during the 23-day period; there are no rules regulating the time and length of interrogation; there is no State-appointed counsel to advise and assist the suspect in custody; there are serious restrictions on access to defence counsel under article 39(3) of the Code of Criminal Procedure; and the interrogation does not take place in the presence of the counsel engaged by the suspect. The Committee strongly recommends that the pre-trial detention system in Japan should be reformed with immediate effect to bring it in conformity with articles 9, 10 and 14 of the Covenant.

23. The Committee is concerned that the substitute prison system (Daiyo Kangoku), though subject to a branch of the police which does not deal with investigation, is not under the control of a separate authority. This may increase the chances of abuse of the rights of detainees under articles 9 and 14 of the Covenant. The Committee reiterates its recommendation, made after consideration of the third periodic report, that the substitute prison system should be made compatible with all requirements of the Covenant.

24. The Committee is concerned that rule 4 of the Habeas Corpus Rules under the Habeas Corpus Law limits the grounds for obtaining a writ of habeas corpus to (a) the absence of a legal right to place a person in custody and (b) manifest violation of due process. It also requires exhaustion of all other remedies. The Committee is of the view that rule 4 impairs the effectiveness of the remedy for challenging the legality of detention and is therefore incompatible with article 9 of the Covenant. The Committee recommends that the State party repeal rule 4 and make the remedy of habeas corpus fully effective without any limitation or restriction.

25. The Committee is deeply concerned about the fact that a large number of the convictions in criminal trials are based on confessions. In order to exclude the possibility that confessions are extracted under duress, the Committee strongly recommends that the interrogation of the suspect in police custody or substitute prisons be strictly monitored, and recorded by electronic means.

26. The Committee is concerned that under the criminal law, there is no obligation on the prosecution to disclose evidence it may have gathered in the course of the investigation other than that which it intends to produce at the trial, and that the defence has no general right to ask for the disclosure of that material at any stage of the proceedings. The Committee recommends that, in accordance with the guarantees provided for in article 14, paragraph 3, of the Covenant, the State party ensure that its law and practice enable the defence to have access to all relevant material so as not to hamper the right of defence.

27. The Committee is deeply concerned at many aspects of the prison system in Japan which raise serious questions of compliance with articles 2, paragraph 3 (a), 7 and 10 of the Covenant. Specifically, the Committee is concerned with the following:

(a) Harsh rules of conduct in prisons that restrict the fundamental rights of prisoners, including freedom of speech, freedom of association and privacy;

(b) Use of harsh punitive measures, including frequent resort to solitary confinement;

(c) Lack of fair and open procedures for deciding on disciplinary measures against prisoners accused of breaking the rules;

(d) Inadequate protection for prisoners who complain of reprisals by prison warders;

(e) Lack of a credible system for investigating complaints by prisoners; and

(f) Frequent use of protective measures, such as leather handcuffs, that may constitute cruel and inhuman treatment.

28. The Committee is concerned that the Central Labour Relations Commission refuses to hear an application of unfair labour practices if the workers wear armbands indicating their affiliation to a trade union. Such an action contravenes articles 19 and 22 of the Covenant. The Committee's view should be brought to the attention of the Central Labour Relations Commission.

29. Despite the amendment to the Business Entertainment Law, traffic in women and insufficient protection for women subject to trafficking and slavery-like practices remain serious concerns under article 8 of the Covenant. In light of information given by the State party on planned new legislation against child prostitution and child pornography, the Committee is concerned that such measures may not protect children under the age of 18 when the age limit for sexual consent is as low as 13. The Committee is also concerned about the absence of specific legal provisions prohibiting bringing of foreign children to Japan for the purpose of prostitution, despite the fact that abduction and sexual exploitation of children are subject to penal sanctions. The Committee recommends that the situation be brought into compliance with the State party's obligations under articles 9, 17 and 24 of the Covenant.

30. The Committee continues to be gravely concerned about the high incidence of violence against women, in particular domestic violence and rape, and the absence of any remedial measures to eradicate this practice. The Committee is troubled that the courts in Japan seem to consider domestic violence, including forced sexual intercourse, as a normal incident of married life.

31. The Committee, while acknowledging the abolition of forced sterilization of disabled women, regrets that the law has not provided for a right of compensation to persons who were subjected to forced sterilization, and recommends that the necessary legal steps be taken.

32. The Committee is concerned that there is no provision for training of judges, prosecutors and administrative officers in human rights under the Covenant. The Committee strongly recommends that such training be made available. Judicial colloquiums and seminars should be held to familiarize judges with the provisions of the Covenant. The Committee's general comments and the Views expressed by the Committee on communications under the Optional Protocol should be supplied to the judges.

33. The Committee urges the Government to take action on the ground of these concluding observations and to consider them in the preparation of the fifth periodic report. It also recommends that the State party continue reviewing its laws, and making appropriate amendments, so as to bring its legislation into full conformity with the Covenant. The Committee recommends that the State party take measures to provide remedies to victims of violations of human rights and, in particular, that it ratify the Optional Protocol to the Covenant.

34. The Committee expects that in implementing these concluding observations the State party will engage itself in a dialogue with all domestic interested parties, including non-governmental organizations. The Committee urges the State party to ensure the wide dissemination of its report and of these concluding observations.

35. The Committee has fixed the date of submission of Japan's fifth periodic report to be October 2002.

UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.103
19 November 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Austria

1. The Committee considered the third periodic report of Austria (CCPR/C/83/Add.3) at its 1718th and 1719th meetings (CCPR/C/SR.1819-1719), held on 30 October 1998, and adopted the following concluding observations at its 1726th meeting (CCPR/C/SR.1726), held on 5 November 1998.

A. Introduction

2. The Committee welcomes the detailed report submitted by the State party and expresses its appreciation for the clear, updated information provided orally by the delegation. While noting the high quality of the report of the State party, the Committee notes the considerable delay in its submission; the report would have been improved by the inclusion of quantitative and practical data, although the delegation provided such additional information.

B. Positive factors

3. The Committee welcomes the ratification by Austria of the Second Optional Protocol to the Covenant with effect from 2 June 1998.

4. The Committee welcomes the withdrawal by Austria of some of its reservations to the Covenant; it would have been appreciated if the reasons for these withdrawals and the precise nature of their effect, as well as the reasons for maintenance of the remaining reservations, had been more clearly explained.

5. The Committee welcomes the recent constitutional and legislative changes aimed at improved protection against discrimination; the admission of women to the armed forces and their advancement in the Civil Service is appreciated; legislation to promote the rights and prospects of disabled persons is also welcomed.

6. The Committee also welcomes the end to the monopoly on radio broadcasting and the establishment of private radio stations in Austria.

C. Principal subjects of concern and recommendations

7. While noting that the European Convention for the Protection of Human Rights and Fundamental Freedoms has been incorporated into the Austrian Constitution, the Committee emphasizes that a number of articles of the Covenant exceed the scope of the provisions of the European Convention. The Committee, therefore, recommends that the State party ensure that all rights protected under the Covenant are given effect in Austrian law.

8. The Committee is concerned that the State party made it clear that it has no intention of adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol consistent with its obligations under article 2 of the Covenant.

9. The Committee is concerned that there is no provision in the Code of Criminal Procedure whereby a statement by way of confession must, if challenged, be proved not to have been extracted by means of torture or ill-treatment. The Committee recommends that steps be taken to amend the Code of Criminal Procedure in this regard.

10. The Committee notes with concern that the presence of a lawyer to advise a detained person is not authorized at the preliminary stage of judicial criminal investigation (prior to the person's appearance before a judge). It recommends that the Code of Criminal Procedure be revised so as to guarantee more fully the right of a suspect to be assisted by a lawyer at all stages of the proceedings. Further, whilst commending the efforts undertaken by the State party to prevent, investigate and punish acts of ill-treatment of suspects and detainees, the Committee regrets that audio recording of the interrogations of the detainees is not yet used systematically. The Committee recommends that audio recording of interrogations be implemented in all Länder.

11. The Committee is concerned about certain features of Austria's law and procedure concerning asylum seekers and immigrants. These concerns relate to (i) apparently insufficient legal guarantees to prevent deportation in cases where there is a risk of treatment that would violate article 7; (ii) the treatment of persons against whom there is a deportation decision but who remain in the country, raising issues under articles 7, 10 and 16; and (iii) sanctions against passenger carriers and other pre-frontier arrangements that may affect the rights of any person to leave any country, including his or her own (art. 12, para. 2 of the Covenant).

12. The Committee considers that, despite recent reforms, the nature and functions of the autonomous administrative tribunals continue to raise

questions in connection with the requirements of "due process" under article 14 of the Covenant. It encourages the State party fully to implement the principle of independence of all courts and tribunals.

13. The Committee considers that existing legislation on the minimum age of consent for sexual relations in respect of male homosexuals is discriminatory on grounds of sex and sexual orientation. It requests that the law be revised to remove such discriminatory provisions.

14. The Committee notes with concern that the State party appears to restrict the definition of minorities to certain legally recognized groups. It requests that specific information on all ethnic, religious or linguistic minorities be included in Austria's next periodic report, in the light of the Committee's General Comment No. 23 (50).

15. The Committee is concerned that legal provisions in Austria relating to the recognition of religions and the benefits accorded to recognized religions may result in discrimination contrary to articles 18 and 26 of the Covenant.

16. The Committee would appreciate information, in the next periodic report, about the application and effect of article 283 of the Criminal Code, concerning propaganda and incitement to war and to national, racial or religious hatred.

17. The Committee requests that in its next periodic report the State party provide further information about measures being implemented to counter all forms of violence against women.

18. The Committee requests that the State party address the Committee's concerns and recommendations in detail in its next periodic report.

19. The Committee sets the date for the submission of Austria's fourth periodic report as October 2002. It requests that the text of the State party's third periodic report and the present concluding observations be published and widely disseminated within Austria and that the next periodic report be disseminated among non-governmental organizations operating in Austria.